



Speech by

# Hon. PETER BEATTIE

MEMBER FOR BRISBANE CENTRAL

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Hansard 8 June 1999

## AUSTRALIA ACTS (REQUEST) BILL

**Hon. P. D. BEATTIE** (Brisbane Central— ALP) (Premier) (2.30 p.m.): I move—  
"That the Bill be now read a second time."

In November this year, Australians will vote on whether Australia is to become a republic. If the referendum is passed, Australia will become a republic at the national level. The States will then have to consider whether to sever their links with the Crown.

There is an argument that section 7 of the Australia Acts of the Commonwealth and the United Kingdom needs to be amended to ensure that States can exercise their own constitutional processes to sever their links with the Crown. Section 7 deals with the relationship between Her Majesty and State Governors. It states that "Her Majesty's representative in each State shall be the Governor".

The States are bound by the Australia Acts and cannot legislate in a way that is contrary or repugnant to the Australia Acts. If a State were to amend its Constitution to provide that the Governor is not Her Majesty's representative, this may be considered to be repugnant to section 7 of the Australia Acts. Accordingly, for the sake of certainty, section 7 of the Australia Acts needs to be amended if Australia becomes a republic to ensure that States will be able to sever their links with the Crown should they choose to do so.

Section 15(1) of the Australia Acts sets out a procedure for the amendment of the Australia Acts. This can be done by Commonwealth legislation passed at the request of all the State Parliaments. Another possible way of amending the Australia Acts is by inserting in the Commonwealth Referendum Bill a power for the Commonwealth Parliament to make such an amendment. This is recognised by section 15(3) of the Australia Acts, but no actual power is given in the Australia Acts to make an amendment in this way. Accordingly, there is legal doubt as to whether this course is effective.

The Commonwealth has inserted in the transitional provisions in its Referendum Bill, the Constitution Alteration (Establishment of Republic) Bill, such a power for the Commonwealth Parliament to amend section 7 of the Australia Acts. The States have been critical of the initial draft of this provision and would prefer that the amendment be made by the more legally secure and appropriate route set out in section 15(1) of the Australia Acts, and this view was made very clear to the Prime Minister at a recent meeting of Premiers in Canberra and, in particular, I made Queensland's view clear on this matter. Accordingly, each State's Solicitor-General, Parliamentary Counsel and law officers have negotiated uniform request legislation which each State is proposing to enact. The Bill has now been passed by the Victorian and New South Wales Parliaments and been introduced in the Parliaments of the three other States.

The Bill requests the Commonwealth Parliament to enact a Bill in a form set out in the Schedule to amend section 7 of the Australia Acts. This State Request Bill will not come into force unless the Commonwealth's Referendum Bill, the Constitutional Alteration (Establishment of Republic) Bill, is passed by the referendum and receives royal assent. Accordingly, this State Request Bill will have no effect if the Commonwealth referendum on the republic fails. If the Commonwealth referendum on the republic is passed, however, and all the States pass this uniform request legislation, the Commonwealth Parliament may amend section 7 of the Australia Acts by adding two subsections.

These subsections provide that a State Parliament may make a law providing that section 7 does not apply to the State and that if it makes such a law, then section 7 ceases to apply to the State. This amendment therefore gives the State Parliament the power to decide at a future date whether it wants to terminate the operation of section 7 in relation to the State. The Bill does not affect the constitutional procedures necessary for a State to sever its ties with the Crown. It does not remove any requirement on a State Constitution to hold a referendum. If all States pass this uniform request legislation prior to the Commonwealth's Referendum Bill being passed by the Commonwealth Parliament in August this year, then the Commonwealth will be in a position to remove the provision in its Referendum Bill dealing with the amendment of section 7 of the Australia Acts, as the Commonwealth will be able to act upon the section 15(1) request.

I repeat to the House the invitation my Government has extended to all leading members of this House to attend the Constitutional Convention that is being held in Gladstone. I acknowledge that a number of leaders, including the Leader of the Liberal Party, will be present. That convention will be held shortly and I know that it will be of great assistance in considering in a non-partisan way some of the issues that need to be considered should the referendum be carried in November this year. I commend this Bill to the House.

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